

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

In the Matter of

Implementation of the Local Competition  
Provisions in the Telecommunications Act  
of 1996

CC Docket No. 96-98

MAY 30 1996

**REPLY COMMENTS OF  
MOBILEMEDIA COMMUNICATIONS, INC.**

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May 30, 1996

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**REPLY COMMENTS OF  
MOBILEMEDIA COMMUNICATIONS, INC.**

MobileMedia Communications, Inc. ("MobileMedia"),<sup>1</sup> hereby submits its reply comments in the above-captioned docket.<sup>2</sup> In this proceeding, the Commission sought comment on various proposals to implement the local competition provisions of the Communications Act of 1934, as amended by Sections 251 and 252 of the 1996 Act.<sup>3</sup>

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<sup>1</sup> MobileMedia, the parent company of MobileMedia Paging, Inc. and Mobile Communications Corporation of America, holds narrowband paging licenses throughout the common carrier and private carrier bands. In addition, the company has two nationwide one-way wireless networks, and two nationwide narrowband PCS licenses.

<sup>2</sup> *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, Notice of Proposed Rulemaking, FCC 96-182 (rel. Apr. 19, 1996) ("*NPRM*").

<sup>3</sup> Sections 251 and 252 of the Communications Act were recently adopted in the Telecommunications Act of 1996, § 101, Pub. Law No. 104-104, 110 Stat. 56, 71 (1996) ("1996 Act") (to be codified at 47 U.S.C. § 251 and 252).

## I. INTRODUCTION

In its opening comments, MobileMedia drew the Commission's attention to the record developed in CC Docket No. 95-185 (the LEC-CMRS interconnection proceeding) which demonstrated conclusively that, contrary to Congress' intent, existing interconnection arrangements between LECs and paging carriers deny paging carriers any compensation for the switching and transport functions that they perform in terminating LEC originated traffic.<sup>4</sup> Commenters note that these inequities provide compelling reasons for the Commission to adopt interim measures that require LECs to compensate paging carriers for LEC-originated calls terminated on the paging carriers' networks.<sup>5</sup>

MobileMedia argued that LEC-paging interconnection is governed by Section 332(c)(1)(B), not Sections 251/252. Numerous commenters agree with this conclusion. The National Wireless Reseller's Association ("NWRA") took a contrary view regarding LEC-CMRS interconnection generally, but its arguments, as shown below, are unfounded. Should the Commission conclude that Sections 251/252 do apply to LEC-paging interconnection, the Commission has ample authority under these provisions to impose interim LEC-paging interconnection relief

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<sup>4</sup> Comments of MobileMedia at 2-4

<sup>5</sup> *See, e.g.*, Comments of PageNet at 23 and Affidavit of Vic Jackson; AT&T at 7; Vanguard Cellular at 18.

**II. THE COMMISSION HAS JURISDICTION PURSUANT TO SECTION 332 OF THE COMMUNICATIONS ACT TO REQUIRE LECs TO COMPENSATE PAGING CARRIERS FOR CALL TERMINATION**  
*(NPRM Section II.B.2.e(2) - Commercial Mobile Radio Services)*

MobileMedia noted in its comments that the 1993 Budget Act revisions to the Communications Act of 1934 granted the Commission exclusive jurisdiction over one-way paging and other types of CMRS. Specifically, Congress directed the Commission to order common carriers to interconnect with any CMRS provider pursuant to Section 332(c)(1)(B),<sup>6</sup> in accordance with its authority under Section 201 of the Act. Congress also amended Section 2(b) to make clear that the Commission retained plenary authority to regulate both interstate and intrastate LEC-CMRS interconnection. Many commenters agree that Section 332(c)(1)(B) governs all matters related to LEC-CMRS interconnection,<sup>7</sup> including LEC-paging interconnection, and they similarly conclude that the 1996 Act did not disturb this exclusive delegation of power to the Commission.<sup>8</sup> The Commission thus retains the authority under Section 332(c)(1)(B) to require that LEC-paging interconnection be driven by reciprocal compensation principles.

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<sup>6</sup> 47 U.S.C. § 332(c)(1)(B).

<sup>7</sup> See, e.g., Comments of PageNet at 3-4; the Personal Communications Industry Association ("PCIA") at 3-7; 360° Communications Company at 5-7; the Cellular Telecommunications Industry Association ("CTIA") at 1-6; Sprint Spectrum and American Personal Communications at 3-4; AT&T at 42.

<sup>8</sup> See, e.g., Comments of Bell Atlantic NYNEX Mobile at 3-6; Vanguard Cellular at 13-15; Arch Communications Group at 12; 360° Communications at 6; CTIA at 5-6; Omnipoint at 12.

Should the Commission conclude otherwise, the Commission has ample authority under Section 251 to adopt an interim policy requiring LECs to compensate paging carriers for terminating LEC-originated traffic. As MobileMedia explained in its comments, Section 251(b)(5) already requires LECs to establish reciprocal arrangements for the transport and termination of traffic. Further, by merely requiring LECs to compensate paging and other CMRS carriers for terminating LEC-originated traffic, the Commission would be creating rules which “serve as a *de facto* floor or set of minimum standards that [will] guide the parties in the voluntary negotiation process,” consistent with the 1996 Act.<sup>9</sup> As MobileMedia explained in its comments, the 1996 Act does support the Commission’s imposition of national standards governing interconnection or ceilings on the rates to be charged for interconnection.

**III. SECTIONS 251 AND 252 DO NOT APPLY TO CMRS  
INTERCONNECTION ARRANGEMENTS**  
*(NPRM Section II.C - Obligations Imposed on LECs)*

The NWRA attempts to argue that all CMRS providers are “local exchange carriers” subject to the requirements of Section 251.<sup>10</sup> MobileMedia and other commenters pointed out in their comments, however, that Section 251 generally applies only to interconnections provided by local exchange carriers, and CMRS providers,

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<sup>9</sup> See *NPRM* at ¶20.

<sup>10</sup> Comments of NWRA at 7.

including paging carriers, are specifically exempted from the definition of a local exchange carrier.<sup>11</sup>

A “local exchange carrier” is defined as “any person that is engaged in the provision of telephone exchange service or exchange access.”<sup>12</sup> “Telephone exchange service” is narrowly defined by Section 3(a)(1) of the 1996 Act as:

(A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service . . .

One-way paging licenses are issued for national, regional and local areas — geographic areas that typically do not correspond to telephone exchange service boundaries. Thus, one-way paging providers do not offer telephone exchange services, a fact with which Congress was fully aware.

Further, the legislative history of the 1996 Act indicates that CMRS providers, especially paging carriers, should not be deemed local exchange carriers unless their service becomes a replacement for a substantial portion of telephone exchange service.<sup>13</sup> It is undisputed that one-way paging is not a substitute for landline telephone exchange

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<sup>11</sup> See, e.g., Comments of PCIA at 16-18; PageNet at 12-14; Nextel Communications, Inc. at 5-6; Omnipoint at 2; Vanguard Cellular at 20; AT&T at 43. Section 251(c)(2), which specifically deals with interconnection obligations, only applies to incumbent local exchange carriers. See 47 U.S.C. § 153(44).

<sup>12</sup> 47 U.S.C. § 153(44).

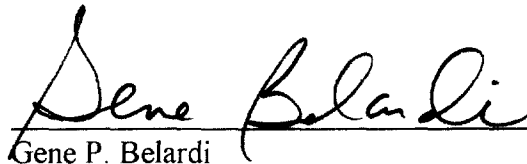
<sup>13</sup> H.R. Rep. No. 104-458, 104th Cong., 2d Sess. 115-16 (1996).

service. Thus, one-way paging providers are not local exchange carriers for purposes of Sections 251/252.

#### IV. CONCLUSION

For the foregoing reasons, the Commission should adopt interim rules without delay that require LECs to compensate one-way paging carries for terminating LEC-originated traffic. As stated above, the Commission has ample authority to impose such a "compensation" requirement under Section 332 or Section 251. Further, the record in CC Docket no. 95-185 establishes the need for immediate Commission action.

Respectfully submitted,

A handwritten signature in black ink, reading "Gene Belardi". The signature is written in a cursive style with a large initial "G".

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May 30, 1996

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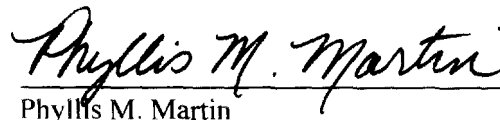
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